

EXHIBIT 1

**Scharf-Norton Center for Constitutional Litigation at the
GOLDWATER INSTITUTE**

Clint Bolick (Arizona Bar No. 021684)

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Attorneys for Intervenor-Defendants Five Individuals

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

THE ARIZONA STUDENTS'
ASSOCIATION,

Plaintiff,

vs.

THE ARIZONA BOARD OF REGENTS,

Defendant.

) 2:13-cv-00306

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) **ANSWER OF FIVE INDIVIDUAL
INTERVENOR-DEFENDANTS**

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Pursuant to Rule 24(c), Fed. R. Civ. Pro., a motion to intervene must be “accompanied by a pleading that sets out the claim or defense for which intervention is sought.” Pursuant to Rule 7(a), Fed. R. Civ. P., the most appropriate “pleading” for which the proposed Intervenor-Defendants may submit is an answer to the Plaintiff’s complaint. This answer set out the defenses for which intervention is sought, including affirmative and other defenses. Intervenor-Defendants do not, by this pleading accompanying their Motion to Intervene, waive any defenses.

1. Paragraph 1 of the Complaint merely describes the alleged basis for Plaintiff’s Complaint and does not require a response.

2. Intervenor-Defendants ADMIT the allegations in paragraph 2 of the

1 Complaint.

2 3. Intervenor-Defendants ADMIT the allegations in paragraph 3 of the
3 Complaint.
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5 4. Intervenor-Defendants ADMIT the allegations in paragraph 4 of the
6 Complaint.
7

8 5. Intervenor-Defendants ADMIT the allegations in paragraph 5 of the
9 Complaint.
10

11 6. Intervenor-Defendants ADMIT the allegations in paragraph 6 of the
12 Complaint.
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14 7. Intervenor-Defendants ADMIT the allegations in paragraph 7 of the
15 Complaint.
16

17 8. Intervenor-Defendants ADMIT the allegations in paragraph 8 of the
18 Complaint.
19

20 9. The Intervenor-Defendants ADMIT the allegations in paragraph 9 of the
21 Complaint.
22

23 10. The Intervenor-Defendants ADMIT that the fee was not mandatory
24 however affirmatively state that students received inadequate notice of the opportunity to
25 request a refund. ASA's procedures were designed and published in a manner that made
26 the opportunity for a student to obtain a refund theoretical rather than practical.
27

28 11. The Intervenor-Defendants ADMIT the allegation in paragraph 11 of
the Complaint.
29

12. The Intervenor-Defendants ADMIT the allegations in paragraph 12 of

1 the Complaint.

2 13. The Intervenor-Defendants ADMIT that the fee was not mandatory
3 however affirmatively state that students received inadequate notice of the opportunity to
4 request a refund. ASA's procedures were designed and published in a manner that made
5 the opportunity for a student to obtain a refund theoretical rather than practical.
6

7 14. The Intervenor-Defendants ADMIT the allegations in paragraph 14 of
8 the Complaint.
9

10 15. The Intervenor-Defendants do not currently possess sufficient
11 information to either ADMIT or DENY the allegations in paragraph 15 of the Complaint.
12

13 16. The Intervenor-Defendants do not currently possess sufficient
14 information to either ADMIT or DENY the allegations in paragraph 16 of the Complaint.
15

16 17. The Intervenor-Defendants do not currently possess sufficient
17 information to either ADMIT or DENY the allegations in paragraph 17 of the Complaint.
18

19 18. The Intervenor-Defendants ADMIT the allegations in paragraph 18 of
20 the Complaint.
21

22 19. The Intervenor-Defendants ADMIT the allegations in paragraph 19 of
23 the Complaint.
24

25 20. The Intervenor-Defendants ADMIT the allegations in paragraph 20 of
26 the Complaint.
27

28 21. The Intervenor-Defendants ADMIT that ASA publically advocated for
the continuation of the one cent sales tax created by Proposition 100.

22. The Intervenor-Defendants ADMIT the allegations in paragraph 22 of

1 the Complaint.

2 23. The Intervenor-Defendants ADMIT the allegations in paragraph 23 of
3 the Complaint.
4

5 24. The Intervenor-Defendants do not currently possess sufficient
6 information to either ADMIT or DENY the allegations in paragraph 24.
7

8 25. The Intervenor-Defendants ADMIT that ASA collected signatures to
9 support Proposition 204; however do not currently possess sufficient information as to
10 the quantity of signatures collected.
11

12 26. The Intervenor-Defendants ADMIT the allegations in paragraph 26 of
13 the Complaint.
14

15 27. The Intervenor-Defendants ADMIT the allegations in paragraph 27 of
16 the Complaint.
17

18 28. The Intervenor-Defendants ADMIT the allegations in paragraph 28 of
19 the Complaint.
20

21 29. The Intervenor-Defendants ADMIT the allegations in paragraph 29 of
22 the Complaint.
23

24 30. The Intervenor-Defendants do not currently possess sufficient
25 information to either ADMIT or DENY the allegations in paragraph 30 of the Complaint.
26

27 31. The Intervenor-Defendants do not currently possess sufficient
28 information to either ADMIT or DENY the allegations in paragraph 31 of the Complaint.
29

30 32. The Intervenor-Defendants ADMIT the allegations in paragraph 32 of
31 the Complaint.
32

1 33. The Intervenor-Defendants ADMIT the allegations in paragraph 33 of
2 the Complaint.

3 34. The Intervenor-Defendants do not currently possess sufficient
4 information to either ADMIT or DENY the allegations in paragraph 34 of the Complaint.

5 35. The Intervenor-Defendants do not currently possess sufficient
6 information to either ADMIT or DENY the allegations in paragraph 35 of the Complaint.

7 36. The Intervenor-Defendants ADMIT the allegations in paragraph 36 of
8 the Complaint.

9 37. The Intervenor-Defendants ADMIT the allegations in paragraph 37 of
10 the Complaint.

11 38. The Intervenor-Defendants ADMIT the allegations in paragraph 38 of
12 the Complaint.

13 39. The Intervenor-Defendants ADMIT the allegations in paragraph 39 of
14 the Complaint.

15 40. The Intervenor-Defendants ADMIT the allegations in paragraph 40 of
16 the Complaint.

17 41. The Intervenor-Defendants DENY the allegations in paragraph 41 of
18 the Complaint.

19 42. The Intervenor-Defendants ADMIT the allegations in paragraph 42 of
20 the Complaint.

21 43. The Intervenor-Defendants ADMIT the allegations in paragraph 43 of
22 the Complaint.

44. The Intervenor-Defendants DENY the allegations set forth in paragraph 44 of the Complaint, which consist of Plaintiff's legal conclusions.

45. The Intervenor-Defendants DENY the allegations set forth in paragraph 45 of the Complaint, which consists of Plaintiff's legal conclusions.

46. The Intervenor-Defendants DENY the allegations set forth in paragraph 46 of the Complaint, which consist of Plaintiff's legal conclusions.

47. The Intervenor-Defendants DENY the allegations set forth in paragraph 47 of the Complaint, which consist of Plaintiff's legal conclusions.

DEFENSES

1. Plaintiff's Complaint fails to meet the standards set out in Fed. R. Civ. P. 12(b)(6), as it does not state a cause of action that is "plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

2. Plaintiff's requested relief would violate the individual Intervenor-Defendants First Amendment right to freedom of speech and expression by compelling Intervenor-Defendants speech and association through the automatic funding of ASA.

REQUEST FOR RELEIF

For all the foregoing reason, Plaintiff's claims should be rejected and al relief be denied by this Court.

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1 **Respectfully submitted March 22, 2013 by:**

2 /S/Kurt M. Altman

3 Clint Bolick (Arizona Bar No. 021684)

4 Kurt M. Altman (Arizona Bar No. 015603)

5 **Scharf-Norton Center for Constitutional**
6 **Litigation at the GOLDWATER**
7 **INSTITUTE**

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11 *Attorneys for Intervenor-Defendants*

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Plaintiff Arizona Students Association and Defendant Arizona Board of Regents are registered CM/ECF users and service will be accomplished by the District Court's CM/ECF system. I certify that I also accomplished service by email to Stephen@montoyalawgroup.com behalf of Plaintiff ASA, and kanefieldj@ballardspahr.com on behalf of Defendant ABOR.

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